HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:22719 OF 2004

Dated: 18.06.2007

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Between:

1. B. Sivasankara Reddy and others.

..**Petitioners**

And

1. The Government of A.P., rep.,
by its secretary, Health Medical &
Family Welfare Department, Secretariat,
Hyderabad and another.

..Respondents

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HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:22719 OF 2004

ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioners aggrieved by an order, dated 15.10.2004 passed by the A.P. Administrative Tribunal in O.A.No.2571 of 2002.

The petitioners herein are the applicants before the Tribunal.

Originally, the petitioners-applicants filed the above O.A. seeking a direction to the respondents to carry out the amendment to the rules issued in G.O.Ms.No.339 HM & FW department, dated 28.8.1996 as to the qualification for the post of Drugs Inspector, as already decided providing appointment to the Junior Analysts as Drug Inspectors, without insisting on a Degree in Chemistry with Pharmaceutical as a special subject from a University in India established or incorporated by or under a Central Act, Provincial Act or an Institution recognized by such University as equivalent thereto.

The tribunal having observed that the rule prescribing that Junior Analysts must have Degree in Pharmacy for the purpose of appointment by transfer as Drugs Inspector cannot be interfered with, dismissed the O.A. Having aggrieved by the same, the present writ petition is filed.

Heard the learned Counsel for the petitioners as well as the learned Government Pleader.

It is the case of the petitioners that they have been working as Junior Analysts for the last 15 years and are well versed in analysis of drugs as they possess Post Graduate Degree in Chemistry and that the qualification possessed by the petitioners is sufficient and therefore, there is no need to insist on B. Pharmacy qualification for the purpose of appointment by transfer of Junior Analyst as Drugs Inspector. It is also their case that as all the petitioners were in service prior to 19.10.1993, the State Government should have made a provision by reviewing the rules for considering their cases for

promotion as Drugs Inspector without insisting on B. Pharmacy qualification. It is also the case of the petitioners that there should not be any discrimination between the Junior Analysts possessing the qualifications of B. Pharmacy and M.Sc., (Chemistry) and that there are no reasonable promotional avenues for them and they have better qualification than that of the persons now appointed as Drug Inspectors and therefore, the tribunal is not justified in dismissing the O.A.

On the other hand, the learned Government Pleader contends that the State Government is empowered to make their own rules without deviation of the Central Rules and Drugs Act. It is also contended that though there is no provision for appointment of Drugs Inspectors by way of appointment by transfer from the category of Junior Analyst in the Central Government or other State Governments, the Government of A.P. issued Rules in G.O.Ms.No.339, Health, Medical & Family Welfare Department, dated 28.8.1996 facilitating a channel of appointment by transfer of Junior Analysts as Drug Inspectors and thus, the junior analysts are conferred with the opportunity of being promoted as Drugs Inspector and for such promotion, prescription of B. Pharmacy qualification cannot be said to be illegal.

On a perusal of the record, it is apparent that there is controversy as to the prescription of qualification to the post of Drugs Inspector. In this regard, the petitioners sought for amendment of rules in G.O.Ms.No.339, dated 28.8.1996. As can be seen from the order impugned, it is apparent that for the purpose of direct recruitment or for appointment by transfer to the post of Drugs Inspector, the prescription of qualification is one and the same.

In view of the nature of the post and in view of the above G.O. introducing a channel to confer benefits to the employees working as junior analysts to be promoted as Drugs Inspector, the rules cannot be amended or altered or changed to suit the convenience of the

employees, who have not possessed the required qualification under the G.O. Therefore, merely on the ground that there are no promotional avenues for the applicants, the rules cannot be amended especially on the ground that the qualification that has been stipulated either for the direct recruitment or by way of appointment by transfer to the post of Drugs Inspector, is one and the same.

In that view of the matter, We have no hesitation to hold that the order of the tribunal needs no interference and the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Chandraiah

Date: 18th June, 2007
Nn/Gurc.

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:22719 OF 2004

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

18/06/2007

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